

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

Paula J. Nutley,

Plaintiff(s),

vs.

Case Number: 09-CV-215-JHP

River Falls Machinery Sales, Inc., et al.,

Defendant(s).

MINUTE ORDER

At the direction of James H. Payne, U.S. District Judge, it is hereby ordered that: Defendant's Daubert Motion, or in the Alternative Motion in Limine No. 1 (Dkt.# 174) is granted in part and denied in part as follows:

Defendant's Expert, Tom Curtis ("Curtis") shall be allowed to testify as an expert reconstructionist. His testimony, however, shall not go beyond the realm of accident reconstruction.

The Tenth Circuit has stated that accident reconstruction may testify as to such matters including, but not limited to vehicle mass; dimensions of vehicles involved in collisions; road surface textures; and operating characteristics of vehicles.

BNSF Ry. Co. v. LaFarge Southwest, Inc., 2009 WL 4279843 (D.N.M. 2009) citing *Brandt v. French*, 638 F.2d 309, 311 (10th Cir. 1981).

Curtis shall not be allowed to testify outside the confines of his subject area. Therefore, Curtis shall not be allowed to testify in regard to the fields of mechanical engineering or metallurgy. Further, Curtis will not be allowed to testify concerning the "standard of care" in a negligence action, or in regard to state and federal statutes and regulations with respect to motor carriers. This includes testimony concerning the necessity of safety chains and/or draw rings. Such testimony would infringe upon the role of the court at trial to instruct the jury on the law.

Dated this 30th day of June, 2011.

William B. Guthrie,
Clerk of Court, United States District Court

s/C. Trzcinski
By: C. Trzcinski, Deputy Clerk